

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF
EDUCATION

THE CERTIFICATES OF : STATE BOARD OF EXAMINERS

LEROY BALDWIN : ORDER OF REVOCATION

_____ : DOCKET NO: 524-05/99-201

At its meeting of May 13, 1999, the State Board of Examiners reviewed information received from the Office of Criminal History Review pursuant to N.J.S.A. 18A:6-7.3 indicating that Leroy Baldwin was convicted in 1983 on charges of grand larceny in the 2nd degree, petty larceny and conspiracy. The Board also had information indicating that Baldwin was convicted in 1997 on charges of grand larceny in the 2nd degree. As a result of those convictions, Respondent was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Respondent did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, at that meeting the State Board of Examiners voted to issue an Order to Show Cause to Respondent. In addition to basing its Order on Baldwin's disqualification, the Board of Examiners also maintained that Baldwin had never informed it of the existence of his 1997 conviction. Baldwin currently holds a Teacher of Baking Certificate of Eligibility with Advanced Standing and a Teacher of Food Management Certificate of Eligibility with Advanced Standing.

The Order to Show Cause was mailed to Respondent by regular and certified mail on July 9, 1999. The Order provided that if Respondent desired to file an Answer to the Order such Answer must be filed within twenty (20) days. Baldwin responded to the Order on July 14, 1999. In his Answer Baldwin admitted his 1983 conviction but denied that he had been convicted of any crime in 1997. Accordingly, Baldwin also denied that he had withheld notice of his 1997 "conviction" from the Board of Examiners. (Answer, ¶4). Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on July 30, 1999, a hearing notice was mailed to Baldwin. The notice explained that since it appeared no material facts were in dispute regarding his disqualification, respondent was

offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Baldwin responded to the Hearing Notice on August 23, 1999. In his response, he argued that he had received a Certificate of Relief from Disabilities from New York State, which he claims was, in effect, the equivalent of an expungement in New Jersey and removed any bar to his employment. (Hearing Response, p.3). Baldwin also indicated that he answered truthfully about his 1983 conviction on his certification application. (Hearing Response, p.4). Finally, Baldwin argued that the Board of Examiners had inaccurately stated that he was convicted in 1997 on a charge of grand larceny. (Hearing Response, p.5). Instead, Baldwin surmised that the Board of Examiners had mistakenly listed the 1997 date when he received his Certificate of Relief from Disabilities as a date of a second conviction. Accordingly, Baldwin stated that he did not withhold information about this “conviction” on his certification application. (Hearing Response, p.5).

At its meeting of November 4, 1999, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of the response, the Board of Examiners agreed that it indeed was mistaken with regard to Baldwin’s 1997 “conviction” and his subsequent failure to report it. Accordingly, the Board proceeded on the Order to Show Cause based only on the disqualification from the 1983 conviction. The Board therefore determined that no material facts related to respondent’s offense were in dispute since Baldwin did not contest his disqualification.

The issue before the State Board of Examiners in this matter, therefore, is to determine whether Respondent’s disqualification, which was predicated on the same 1983 offense as was set

forth in the Order to Show Cause, represents just cause to act against Respondent's certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

Unbecoming conduct is a broadly defined term which includes "any conduct, which has a tendency to destroy public respect for [public] employees and competence in the operation of [public] services." Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998). In the educational arena, unbecoming conduct relates to a teacher's fitness to discharge the duties and functions of the position. Laba v. Newark Board of Education, 23 N.J. 364, 384 (1957).

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 et seq., in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. According to the statute, any individual convicted of a crime in another jurisdiction for a substantially equivalent crime if committed in New Jersey falls squarely within this category. N.J.S.A. 18A:6-7.1(1)(d). In this case, Baldwin's disqualification represents a legislative conclusion that the behavior in which he engaged renders him unfit for contact with public school children. The Board of Examiners agrees. Baldwin has a conviction for a crime that involved dishonesty and theft. Moreover, although his offense occurred prior to his certification as a teacher, the Legislature has determined and the Board of Examiners agrees that the passage of time is of no consequence here. Accordingly, the State Board of Examiners finds that Baldwin's disqualification from service in the public schools of this State because of his conviction for grand larceny is conduct unbecoming and provides just cause to take action against his certificates.

Furthermore, Baldwin's claim that his Certificate of Relief From Disabilities is akin to an expungement is belied by the language on the document itself. The certificate only states that it relieves the holder from any disabilities or bars to employment, excluding the right to be eligible for public office. (Hearing Response, Exhibit B). The document makes no mention of removing from the record any mention of a defendant's crime the way an expungement would. In fact, the Certificate itself states that it shall not be deemed nor construed to be a pardon, which is more

analogous to an expungement, as it indicates a forgiveness for all crimes. (Hearing Response, Exhibit B).

The strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense warrants his preclusion from service in the public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Because the Legislature considers Respondent's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for Baldwin's disqualification is the revocation of his certificates to teach.

Accordingly, it is therefore ORDERED that Leroy Baldwin's Teacher of Baking and Teacher of Food Management Certificates of Eligibility with Advanced Standing be revoked on this 4th day of November 1999. It is further ORDERED that Baldwin return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: January 14, 2000

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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